

Senate Amendment 3075

PAG LIN

1 1 Amend Senate File 354 as follows:
1 2 [#1.](#) Page 1, line 3, by inserting before the word
1 3 <If> the following: <1.>
1 4 [#2.](#) Page 1, by inserting after line 8 the
1 5 following:
1 6 <2. In any proceeding held or action taken under
1 7 this chapter involving an Indian child, the applicable
1 8 requirements of the federal Adoption and Safe Families
1 9 Act of 1999, Pub. L. No. 105-89, shall be applied to
1 10 the proceeding or action in a manner that complies
1 11 with chapter 232B and the federal Indian Child Welfare
1 12 Act, Pub. L. No. 95-608.>
1 13 [#3.](#) Page 1, line 28, by striking the word
1 14 <interests> and inserting the following: <interest>.
1 15 [#4.](#) Page 2, by inserting after line 14 the
1 16 following:
1 17 <____. "Best interest of the child" means the use
1 18 of practices in accordance with the federal Indian
1 19 Child Welfare Act, this chapter, and other applicable
1 20 law, that are designed to prevent the Indian child's
1 21 voluntary or involuntary out-of-home placement, and
1 22 whenever such placement is necessary or ordered,
1 23 placing the child, to the greatest extent possible, in
1 24 a foster home, adoptive placement, or other type of
1 25 custodial placement that reflects the unique values of
1 26 the child's tribal culture and is best able to assist
1 27 the child in establishing, developing, and maintaining
1 28 a political, cultural, and social relationship with
1 29 the Indian child's tribe and tribal community.>
1 30 [#5.](#) Page 2, line 35, by inserting after the word
1 31 <age> the following: <or a child that an Indian tribe
1 32 identifies as a child of the tribe's community>.
1 33 [#6.](#) Page 3, by striking lines 1 and 2.
1 34 [#7.](#) Page 3, by inserting after line 20 the
1 35 following:
1 36 <____. "Indian child's tribe" means a tribe in
1 37 which an Indian child is a member or eligible for
1 38 membership.>
1 39 [#8.](#) Page 4, line 35, by striking the word
1 40 <proceedings> and inserting the following:
1 41 <proceedings, including but not limited to>.
1 42 [#9.](#) Page 5, line 1, by striking the words <and
1 43 which is>.
1 44 [#10.](#) Page 6, by inserting after line 13 the
1 45 following:
1 46 <____. The federal Indian Child Welfare Act and
1 47 this chapter are applicable without exception in any
1 48 child custody proceeding involving an Indian child. A
1 49 state court does not have discretion to determine
1 50 whether an Indian child is part of an existing Indian
2 1 family.>
2 2 [#11.](#) Page 8, line 27, by striking the word
2 3 <adoption> and inserting the following: <permanent
2 4 placement>.
2 5 [#12.](#) Page 10, line 6, by striking the word
2 6 <interests> and inserting the following: <interest>.
2 7 [#13.](#) Page 10, by inserting after line 19 the
2 8 following:
2 9 <____. If a petition to transfer proceedings as
2 10 described in subsection 9 is filed, the court shall
2 11 find good cause to deny the petition only if one or
2 12 more of the following circumstances are shown to
2 13 exist:
2 14 a. The tribal court of the child's tribe declines
2 15 the transfer of jurisdiction.
2 16 b. The tribal court does not have subject matter
2 17 jurisdiction under the laws of the tribe or federal
2 18 law.
2 19 c. Circumstances exist in which the evidence
2 20 necessary to decide the case cannot be presented in
2 21 the tribal court without undue hardship to the parties

2 22 or the witnesses, and the tribal court is unable to
2 23 mitigate the hardship by making arrangements to
2 24 receive and consider the evidence or testimony by use
2 25 of remote communication, by hearing the evidence or
2 26 testimony at a location convenient to the parties or
2 27 witnesses, or by use of other means permitted in the
2 28 tribal court's rules of evidence or discovery.
2 29 d. An objection to the transfer is entered in
2 30 accordance with subsection 9.>
2 31 #14. Page 11, line 23, by inserting after the word
2 32 <unsuccessful> the following: <The court shall not
2 33 order the placement or termination, unless the
2 34 evidence of active efforts shows there has been a
2 35 vigorous and concerted level of case work beyond the
2 36 level that typically constitutes reasonable efforts as
2 37 defined in sections 232.57 and 232.102. Reasonable
2 38 efforts shall not be construed to be active efforts.
2 39 The active efforts must be made in a manner that takes
2 40 into account the prevailing social and cultural
2 41 values, conditions, and way of life of the Indian
2 42 child's tribe. Active efforts shall utilize the
2 43 available resources of the Indian child's extended
2 44 family, tribe, tribal and other Indian social service
2 45 agencies, and individual Indian caregivers. Active
2 46 efforts shall include but are not limited to all of
2 47 the following:
2 48 a. A request to the Indian child's tribe to
2 49 convene traditional and customary support and
2 50 resolution actions or services.
3 1 b. Identification and participation of tribally
3 2 designated representatives at the earliest point.
3 3 c. Consultation with extended family members to
3 4 identify family structure and family support services
3 5 that may be provided by extended family members.
3 6 d. Frequent visitation in the Indian child's home
3 7 and the homes of the child's extended family members.
3 8 e. Exhaustion of all tribally appropriate family
3 9 preservation alternatives.
3 10 f. Identification and provision of housing,
3 11 financial, and transportation assistance.>
3 12 #15. Page 15, line 29, by striking the word
3 13 <interests> and inserting the following: <interest>.
3 14 #16. Page 17, by inserting after line 14 the
3 15 following:
3 16 <____. To the greatest possible extent, a placement
3 17 made in accordance with subsection 1 or 2 shall be
3 18 made in the best interest of the child.
3 19 _____. An adoptive placement of an Indian child
3 20 shall not be ordered in the absence of a
3 21 determination, supported by clear and convincing
3 22 evidence including the testimony of qualified expert
3 23 witnesses, that the placement of the child is in the
3 24 best interest of the child.">
3 25 #17. Page 19, by striking lines 29 and 30 and
3 26 inserting the following: <extensive knowledge of the
3 27 customs, traditions, and values of the Indian child's
3 28 tribe as the customs, traditions, and values>.
3 29 #18. Page 25, line 23, by inserting after the
3 30 figure <232B.> the following: <In any proceeding held
3 31 or action taken under this chapter involving an Indian
3 32 child, the applicable requirements of the federal
3 33 Adoption and Safe Families Act of 1999, Pub. L. No.
3 34 105=89, shall be applied to the proceeding or action
3 35 in a manner that complies with chapter 232B and the
3 36 federal Indian Child Welfare Act, Pub. L. No. 95=608.>
3 37 #19. Page 25, line 31, by inserting after the
3 38 figure <232B.> the following: <In any proceeding held
3 39 or action taken under this chapter involving an Indian
3 40 child, the applicable requirements of the federal
3 41 Adoption and Safe Families Act of 1999, Pub. L. No.
3 42 105=89, shall be applied to the proceeding or action
3 43 in a manner that complies with chapter 232B and the
3 44 federal Indian Child Welfare Act, Pub. L. No. 95=608.>
3 45 #20. By renumbering, redesignating, and correcting
3 46 internal references as necessary.
3 47
3 48
3 49

